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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------------------|-------------|----------------------|---------------------|------------------|
| 10/565,875 | 01/24/2006 | David Small | | 7336 |
| David Small 7550 10/14/2008 | | | | |
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| AUSTRALIA | | | | |
| EXAMINER | | | | |
| NGUYEN, NGA X | | | | |
| ART UNIT | | PAPER NUMBER | | |
| 3662 | | | | |
| MAIL DATE | | DELIVERY MODE | | |
| 10/14/2008 | | PAPER | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/565,875

Applicant(s)

DAVID SMALL

Examiner

NGA X. NGUYEN

Art Unit

3662

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-6, 11 and 19-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-6, 11, 19, 20 and 24-28 is/are rejected.
- 7) ☒ Claim(s) 21-23 and 29-31 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Examiner's Response on Election/Restrictions

1. Applicant traverses on the required restriction filed on 06/11/2008 is acknowledged. Claim 2-6, 11 & 19-31 are part election of Group I.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 2-6, 11, 19-20, 24-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Saunder (5574467).

With regard to claim 2-3, 6, 19, 24 & 27, Sauder discloses:

- Transmitting a plurality of positioning signals through a plurality of radiatings, moving its phase centre through 3D space with predefine motion at a predetermined interval at a 1st cyclic doppler (see column 5-9, lines 57-40)
- Receiving a plurality of positioning signals through a plurality of receiving means, moving its phase centre through 3D space with predefine motion at a predetermined interval at a 2nd cyclic doppler is observed by each of the plurality of receiving (see column 6, lines 55-67, and column 8-9, 21-40)
- Measuring a plurality of combined cyclic Doppler (see column 7, lines 32-35)
- Differencing the 1st and 2nd cyclic Doppler (see column 7, lines 35-39)
- Adjusting the predefined motion of the radiating (see column 9, line 53-61)
- Determining the altitude of the mobile apparatus (see column 9, lines 55-61).

With regard to claim 4, Saunder teaches that moving the transmitting sources to the predetermined value is a minimum (see column 7-8, lines 53-4).

With regard to claim 24, Saunder teaches the adjustment brings the plurality of receiving means and the plurality of radiating means into spatial correlation (see column 7, lines 53-65).

With regard to claim 5, 20 & 26, Saunders teaches that the predetermined interval of the receiving is similar to the predetermined interval of the radiating means (see column 6, lines 55-67).

With regard to claim 28, the predefined Doppler patterns are stored in memory means of the receiving means is inherency.

Allowable Subject Matter

3. Claim 21-23 & 29-31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim were overcome.

Response to Amendment

4. Applicant's arguments with respect to claims 2-6 & 11 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NGA X. NGUYEN whose telephone number is (571)272-5217. The examiner can normally be reached on 8:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TARCZA H. THOMAS can be reached on (571) 272-6979. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

NGA X NGUYEN
Examiner
Art Unit 3662

NXN

/Thomas H. Tarcza/
Supervisory Patent Examiner, Art Unit 3662